

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

JAMES BRETT THOMAS

VS.

STEVEN ELVEY JOHNSON, and
WERNER ENTERPRISES, INC.

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CASE NO. 2:13-CV-00802
(Jury)

MOTION TO SUBSTITUTE PARTY

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Sherri Thomas, Representative of the Estate of James Brett Thomas, and files this Motion to Substitute Representative as Party pursuant to Rule 25(a)(1) of the Federal Rules of Civil Procedure, and in support thereof would respectfully show unto the Court as follows:

1. James Brett Thomas, the original plaintiff, died intestate on December 17, 2013.
2. The claim in this proceeding was not extinguished by the original plaintiff's death.
3. James Brett Thomas was survived by his widow and five (5) children. All five (5) children are the children of James Brett Thomas and Sherri Thomas. Four (4) of the children are minors.
4. Movant, Sherri Thomas, is the widow of the original plaintiff. Movant is qualified, pursuant to Texas Estate Code § 304.001 and § 304.003, to serve as administrator of James Brett Thomas' estate. No formal administration has been opened for the Estate of James Brett Thomas. Neither is a formal administration pending nor necessary.
5. Furthermore, Movant wishes to inform the Court that she is seeking more evidence with regard to James Brett Thomas' death. In particular, Movant is awaiting the results of the autopsy performed on James Brett Thomas to determine whether his death was caused by the accident made

CERTIFICATE OF CONFERENCE

I hereby certify that I contacted defense counsel with regard to this motion. No response has been received.

/s/

PAUL M. BOYD

CERTIFICATE OF SERVICE

I hereby certify that on this the 6th day of March, 2014, a true and correct copy of the above and foregoing instrument was forwarded via electronic means to:

Mr. Michael P. Sharp
Mr. John C. Lindsey
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[ATTORNEY FOR DEFENDANTS STEVEN ELVEY
JOHNSON AND WERNER ENTERPRISES, INC.]

/s/

PAUL M. BOYD